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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,788	07/22/2003	Tony Reno	03-015-TR	7499

7590 06/11/2007
MELISSA PATANGIA, ESQ.
LAMBERT & ASSOCIATES
92 STATE STREET
BOSTON, MA 02109

EXAMINER

MATHEW, FENN C

ART UNIT	PAPER NUMBER
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3764

MAIL DATE	DELIVERY MODE
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06/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/624,788

Applicant(s)

RENO, TONY

Examiner

Fenn C. Mathew

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,9-12,25,28-30,33-35 and 37-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,9-12,25,28-30,33-35 and 37-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Brown (U.S. 3,424,005). Brown discloses a support structure including a user engageable member (16) including a first end, an intermediate section, and a second end, a support attached at a first end to the user engageable member at a perpendicular angle, wherein a second end of the support is capable of slidably connecting to the support structure to allow a user to slidably move the support and the user engageable member to a desired position, wherein the connected support to the support structure renders the user engageable member substantially immovable (note although bar is resilient, support prevents further sliding up and down the support structure when tightened), the bar inherently providing a means for distributing the strongest range of muscular force, means for measuring the strongest range of muscular force (46), and means for displaying the strongest range of muscular force.
3. Claims 45 and 3/45 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown (U.S. 2002/0055424). Brown discloses a support structure including a user engageable member (24) including a first end, an intermediate section, and a second end, a means for slidably connecting the first end of the user engageable member to the support structure (10) at a user desired position to a first chain (paragraph [0030]) connected to the support structure wherein said means allows the user to connect and

Art Unit: 3764

disconnect the first end of the user engageable member at the user desired position from the first chain, means for slidably connecting the second end of the user engageable member to the support structure at the user desired position to a second chain connected to the support structure wherein the means allows the user to connect and disconnect the second end of the user engageable member at the user desired position from the second chain, further wherein the first chain and the second chain are connected to the support structure so as to allow the force of each chain to offset the other chain to render the user engageable member substantially immovable by a muscular force applied by the user, the bar inherently providing a means for distributing the strongest range of muscular force, means for measuring the strongest range of muscular force (46), and means for displaying the strongest range of muscular force. Referring to claim 3, Brown discloses the support structure including a base to support a user.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 3, 9-12, and 25, 28-30, 33-35, and 37-44/1 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (U.S. 3,424,005) in view of Noffsinger (U.S. 4,647,039). Brown teaches the claimed invention but fails to teach the support including a base. Noffsinger teaches in an analogous device the desirability of providing a base in order to provide support for a user. In view of the teachings of

Art Unit: 3764

Noffsinger, it would have been obvious to one of ordinary skill in the art at the time of invention to provide Brown with a base in order to provide support. Referring to claims 9-12, Brown fails to teach means for storing data, and retrieving data, and for identifying a plurality of users. Noffsinger teaches the desirability of providing means for storing and retrieving data for a plurality of users through a computer. It would have been obvious to one of ordinary skill in the art at the time of invention to provide means for storage and retrieval of exercise data as taught by Noffsinger to the device of Brown in order to allow a user to track progress of exercise over a course of time.

6. Referring to claims 25, 28-30, 33-35, and 37-44/1, Brown as modified by Noffsinger reasonably conveys an exercise method involving exerting a force in the position of strongest range of motion (benching), recording the value of the force, inherently abstaining for a period of time as is well known in the art, and exerting a second force and recording its value, and exercising a second abstention period. Specific limitations drawn to having the first or second force exerted being the maximum force are considered obvious to one of ordinary skill in the art, as the skilled artisan could choose from a variety of well known exercise principles such as 'pyramiding up' in wherein subsequent exertions are greater, or 'pyramiding down' wherein subsequent exertions are lessened. With respect to claims 28 and 33, specific time of exercise is variable and one of ordinary skill in the art would choose a desired period of exertion based on the level of exercise desired. With respect to claims 29 and 34, in exercise routines, exerting a force until complete muscle fatigue is a well known principle in the art ('working till failure'). Regarding claims 30 and 35, the step of exercising and

Art Unit: 3764

stopping at the onset of pain would have been obvious to one of ordinary skill in the art as the skilled artisan would not want to risk injury during exercise exertion. . With respect to claims 37-44, the specific period of abstention is a matter of obvious design choice as one of ordinary skill would select a period of abstention based on their individual recovery time, based on personal levels of fitness as well as levels of exertion during exercise, as one who exerts more force will likely be more sore and require a greater recovery time, hence a greater abstention period.

7. Claims , 9-12, and 25, 28-30, 33-35, and 37-44/45 rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (U.S. 2002/0055424) in view of Noffsinger. Referring to claims 9-12, Brown fails to teach means for storing data, and retrieving data, and for identifying a plurality of users. Noffsinger teaches the desirability of providing means for storing and retrieving data for a plurality of users through a computer. It would have been obvious to one of ordinary skill in the art at the time of invention to provide means for storage and retrieval of exercise data as taught by Noffsinger to the device of Brown in order to allow a user to track progress of exercise over a course of time.

8. Referring to claims 25, 28-30, 33-35, and 37-44/1, Brown as modified by Noffsinger reasonably conveys an exercise method involving exerting a force in the position of strongest range of motion (benching), recording the value of the force, inherently abstaining for a period of time as is well known in the art, and exerting a second force and recording its value, and exercising a second abstention period. Specific limitations drawn to having the first or second force exerted being the maximum

Art Unit: 3764

force are considered obvious to one of ordinary skill in the art, as the skilled artisan could choose from a variety of well known exercise principles such as 'pyramiding up' in wherein subsequent exertions are greater, or 'pyramiding down' wherein subsequent exertions are lessened. With respect to claims 28 and 33, specific time of exercise is variable and one of ordinary skill in the art would choose a desired period of exertion based on the level of exercise desired. With respect to claims 29 and 34, in exercise routines, exerting a force until complete muscle fatigue is a well known principle in the art ('working till failure'). Regarding claims 30 and 35, the step of exercising and stopping at the onset of pain would have been obvious to one of ordinary skill in the art as the skilled artisan would not want to risk injury during exercise exertion. . With respect to claims 37-44, the specific period of abstention is a matter of obvious design choice as one of ordinary skill would select a period of abstention based on their individual recovery time, based on personal levels of fitness as well as levels of exertion during exercise, as one who exerts more force will likely be more sore and require a greater recovery time, hence a greater abstention period.

Response to Arguments

9. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

Art Unit: 3764

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn C. Mathew whose telephone number is (571) 272-4978. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



F.C. Mathew
June 7, 2007